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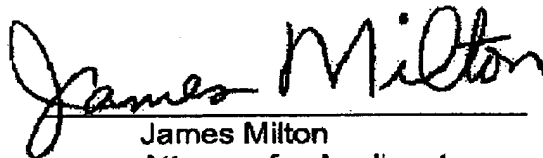
Patent Application

Inventor(s): Edward A. Clark
Case No.: LUC-434/Clark 11
Serial No.: 10/698,328
Filing Date: 10/31/2003
Title: TRANSMISSION OF USER INPUT(S) TO TELEPHONY DEVICE(S)
THROUGH EMPLOYMENT OF DATA STREAM(S) ASSOCIATED WITH
CALL

Examiner Kyung H. Shin
Art Unit: 2443

CERTIFICATE OF FACSIMILE TRANSMISSION

I hereby certify that this correspondence is being sent via facsimile transmission to Commissioner for Patents, Mail Stop Amendment, Group Art Unit 2443, Attention: Examiner Kyung H. Shin, P.O. Box 1450, Alexandria, VA 22313-1450, at fax number (571) 273-8300, on August 21, 2009.



James Milton
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Date of Signature: August 21, 2009

Commissioner for Patents
Mail Stop Amendment
Group Art Unit 2443
Attention: Examiner Kyung H. Shin
P.O. Box 1450
Alexandria, VA 22313-1450
Fax Number (571) 273-8300

PRE-APPEAL BRIEF REQUEST FOR REVIEW

Dear Sir:

Applicant requests review of the final rejection of this application. No amendments are being filed with this request. This request is being filed with a Notice of Appeal. The review is requested for the reasons stated on the attached sheets.

REMARKS

Claims 1-30 are pending in the application. Claims 1-30 were rejected under 35 U.S.C. § 103 (a).

Rejection Under 35 U.S.C. § 103 (a)**Rejection Under Salvage, Mikhailov, Battle and Murto**

Claims 1-6, 8-14, 17-24, 26-29 and 30 were rejected under 35 U.S.C. § 103 (a) as being unpatentable over U. S. Patent Application Number 2001/0009014 issued to Savage et al. dated July 19, 2001 in view of U. S. Patent Application Number 2002/0080949 issued to Mikhailov dated June 27, 2002, and further in view of U. S. Patent Number 6,081,592 issued to Battle on June 27, 2000 and U. S. Patent Number 5,966,662 issued to Murto on October 12, 1999.

Applicant respectfully traverses this ground of rejection for the following reasons.

First, applicant's claim 1 recites,

"wherein the one or more application server components establish the one or more data streams via employment of a) one or more data stream request messages and b) one or more identifiers which distinguish calls associated with the one or more application server components, and wherein the one or more application server components select the one or more identifiers through employment of one or more methods, and at least one of the one or more methods is a priority selection method."

As stated in the Final Office Action, the Examiner agrees that Savage, Mikhailov and Battle do not teach or suggest "a priority selection method". Moreover, applicant notes that Murto does not teach or suggest the limitation either. Instead, Murto discloses a technique for controlling the transmission of paging messages in a mobile communications network. In Murto, the base stations of a location area are divided into paging groups according to the traffic load of the base stations, so that new paging messages are first transmitted via base stations with a light traffic load. Due to the grouping, the base stations in overloaded areas are classified in a lower priority paging group, whereas the base stations with light traffic loads are in a higher priority paging group. See column 4, lines 36-53. In other words, Murto provides load balancing of

paging messages to base stations in a mobile communications network by giving priority for the transmission of new page messages to lightly loaded base stations.

By contrast, applicant's claim 1 does not recite "base stations", "paging messages", "load balancing" or any aspects of a mobile communications network. Applicant's claim 1 requires one or more application server components that establish data streams via an identifier, selected using a priority selection method, that can distinguish calls associated with the one or more application server components. This is clearly different from the teachings of Murto because Murto performs load balancing of paging messages among base stations in a mobile communications network rather than the selection, via a priority selection method, of an identifier that can distinguish calls associated with one or more application server components in a data network.

Also, the Examiner has asserted that the overloaded paging groups are an identifier used in Murto's technique. Even assuming that the overloaded paging groups are an identifier, Murto still fails to teach or suggest applicant's claim 1. This is because Murto's identifier does not distinguish calls associated with the one or more application server components. Thus, Murto, similar to Savage, Mikhailov and Battle, is missing the "wherein the one or more application server components select the one or more identifiers through employment of one or more methods, and at least one of the one or more methods is a priority selection method" elements, as recited in applicant's claim 1.

Second, the Final Office Action suggests that there is a motivation to combine Savage with Murto —namely, to prevent unnecessary signaling between stations during call establishment due to inadequate channel resources. However, applicant respectfully submits that the teachings in Savage and Murto provide no basis to conclude that a person of ordinary skill in the art would use Murto's techniques to facilitate Savage's arrangement to arrive at the subject matter of applicant's claim 1, so the combination is improper.

Specifically, the problems that the references address are so different that the teachings provide no motivation for the person of ordinary skill to combine them.

More specifically, Savage addresses the problem of providing high-quality, real-time communication among a plurality of remote clients with a highly scalable system. In Savage, the problem is addressed by receiving a request with a dispatch server, the

request being from a first one of the plurality of clients to join a first conference; and dispatching the first client to the first conference on a first one of a plurality of media servers associated with the dispatch server.

Rather than addressing problems that involve providing high-quality, real-time communication among a plurality of remote clients as done by Savage, it appears that the problem being addressed by Murto is the need to prevent the unnecessary signaling traffic, caused by paging messages, between a base station and a mobile station in a situation where the base station cannot handle call establishment due to inadequate channel resources. In Murto, the problem is addressed by grouping base stations of a location area according to traffic load, and transmitting a paging message for a mobile station first via lightly loaded base stations of the location area of the mobile station.

Also, the end user services offered by the networks in Savage and Murto are different, which places different requirements on the network infrastructure needed for supporting the different services. Savage's media server network delivers conference services. By contrast, Murto's network transmits and receives wireless voice services.

Furthermore, the network architecture in each reference is so different that the respective teachings provide no motivation for the person of ordinary skill to combine them. Savage provides an Internet Protocol (IP) network with media servers, as stated in paragraph 0011. By contrast, Murto provides a mobile communications network.

Still further, the communications protocols utilized in the networks in Savage and Murto are so different that the teachings provide no motivation for the person of ordinary skill to combine these references. Savage's IP network uses real-time protocol (RTP), TCP/IP and UDP/IP protocols. As known by those skilled in the art, IP networks such as in Savage, encapsulate information as datagrams containing the data to be transferred as well as a description of the data's source and destination IP addresses, i.e., signaling and information content share the same media. Consequently, data network are connectionless, i.e., do not require call set-up. By contrast, the network in Murto relies on the Global System for Mobile Communications (GSM) protocol, which requires signaling messages and information content to be carried in separate media.

Accordingly, one of ordinary skill in the art would not be motivated to combine a solution that provides 1) receiving a request with a dispatch server, the request being

from a first one of the plurality of clients to join a first conference; and dispatching the first client to the first conference on a first one of a plurality of media servers associated with the dispatch server, with 2) grouping base stations of a location area according to traffic load; and transmitting a paging message for a mobile station first via lightly loaded base stations of the location area of the mobile station.

Furthermore, Savage makes no mention of load balancing paging messages in a GSM network, nor is there a teaching in Savage to suggest that there would be an improvement in Savage's media server network by load balancing paging messages in a GSM network. Since the teachings of Savage adequately address the problem of providing high-quality, real-time communication among a plurality of remote clients with a highly scalable system, there is no motivation to combine Savage with Murto's teachings. Given that Savage's technique does not suffer from the problems that Murto addresses, one of ordinary skill in the art would not be led to try to improve Savage's technique with Murto's teachings.

Thus, one of ordinary skill in the art would not be motivated to modify Savage with Murto's teachings. Consequently, applicant respectfully submits that the Examiner is relying on the use of impermissible hindsight in an attempt to reconstruct applicant's teachings by combining Savage with Murto. Accordingly, applicant submits that the combination and resultant rejection are improper.

Therefore the proposed combination of Savage, Mikhailov, Battle and Murto does not teach or suggest all of the limitations in applicant's claim 1, and therefore claim 1 is allowable over the proposed combination. Since claims 2-14 and 21-30 depend from allowable claim 1, these claims are also allowable over the proposed combination.

Independent claims 17 and 20 each have a limitation similar to that of independent claim 1, which was shown is not taught by the proposed combination. For example, claims 17 and 20 recite, "wherein the one or more application server components select the one or more identifiers through employment of one or more methods, and at least one of the one or more methods is a priority selection method". The proposed combination does not teach or suggest this limitation for the above-mentioned reasons. Therefore, claims 17 and 20 are likewise allowable over the

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proposed combination. Since claims 18-19 depend from claim 17, these dependent claims are also allowable over the proposed combination.

Rejection Under Salvage, Mikhailov, Battle, Murto, and Cloutier

Claims 7, 15-16 and 25 were rejected under 35 U.S.C. § 103 (a) as being unpatentable over Savage in view of Mikhailov, Battle and Murto, and further in view of U. S. Patent Application Number 2004/0015405 issued to Cloutier et al.

Applicant respectfully traverses this ground of rejection.

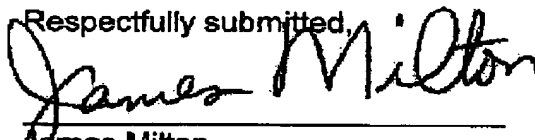
Claims 7, 15-16 and 25 depend from independent claim 1. As noted hereinabove, Savage, Mikhailov, Battle and Murto do not teach or suggest "wherein the one or more application server components select the one or more identifiers through employment of one or more methods, and at least one of the one or more methods is a priority selection method", as recited in applicant's independent claims 1, 17 and 20. Cloutier does not teach or suggest the elements either. Thus, claims 7, 15-16 and 24-25 are allowable over the proposed combinations of Savage, Mikhailov, Battle, Murto, and Cloutier under 35 U.S.C. § 103 (a).

Conclusion

In view of the above remarks, withdrawal of the rejections and/or reversal of the rejections of all claims pending is respectfully requested.

If a telephone conference would be of assistance in advancing the prosecution of this application, feel free to call applicant's attorney.

Respectfully submitted,



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Dated: August 21, 2009

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